



Department of Justice

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JUSTICE DEPARTMENT RESOLVES LAWSUIT AGAINST DAIRY FARMERS OF AMERICA INC. AND SODIAAL NORTH AMERICA CORPORATION

WASHINGTON, D.C. -- The Department of Justice today resolved its lawsuit against Dairy Farmers of America Inc. and SODIAAL North America Corporation by requiring the companies to restructure their proposed \$36 million merger. The restructuring of the transaction will preserve competition in the sale of branded butter in the New York and Philadelphia metropolitan areas.

The Department filed a consent decree today in U.S. District Court in Philadelphia that would resolve a lawsuit filed March 31, 2000, by the Department's Antitrust Division to block Dairy Farmers of America's proposed acquisition of SODIAAL because it raised competitive concerns. On March 31, the U.S. District Court in Philadelphia issued an order that temporarily blocked the transaction.

"This resolution is a win for retailers and consumers in the Philadelphia and New York metropolitan areas," said Joel I. Klein, Assistant Attorney General in charge of the Department's Antitrust Division. "Now, consumers will continue to realize the benefits of competition in these markets."

In its complaint, the Department alleged that the merger would substantially reduce competition for branded butter sales in the Philadelphia and New York metropolitan areas by eliminating SODIAAL North America Corporation as a strong independent competitor. The

merger would have resulted in the two remaining firms--Dairy Farmers of America and Land O'Lakes--accounting for nearly 100 percent of the sales of branded stick and branded whipped butter in the Philadelphia and New York areas. Unlike SODIAAL, both Dairy Farmers of America and Land O' Lakes are agricultural cooperatives that could "federate" under the Capper-Volstead Act, which authorizes agricultural producers to collectively process, prepare for market, handle, and market their products without fear of antitrust challenge.

The consent decree prohibits coordination by Dairy Farmers of America with Land O' Lakes, and it prohibits Dairy Farmers of America from sharing competitively sensitive information, relating to branded butter with Land O' Lakes. In addition, it prohibits Dairy Farmers of America from agreeing directly or indirectly with Land O' Lakes to charge Dairy Farmers of America's newly created butter subsidiary, Butter LLC, discriminatory prices for cream, milk or butter.

As required by the Tunney Act, the proposed settlement will be published in the Federal Register along with the Department's competitive impact statement. Any person may submit written comments concerning the proposed settlement during a 60-day comment period to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW, Suite 3000, Washington, DC 20530. At the conclusion of the 60-day comment period, the Court may enter the consent decree upon finding that it serves the public interest.

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